



Estate Planning Basics

An Overview of the
Estate Planning Process

Good <MORNING, AFTERNOON, EVENING> and welcome. My name is <YOUR NAME>, and I represent <FIRM NAME>.

In this estate planning presentation, we'll take a look at some general estate planning concepts and strategies. While there's no such thing as a "one size fits all" estate plan, this overview may assist you in thinking about your own estate planning needs, and may help you in determining whether you might benefit from working with a financial planning professional.

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What Is an Estate Plan?

- An estate plan is a map
- This map reflects the way you want your personal and financial affairs to be handled in case of incapacity or death



What is an estate plan? Simply put, it's a map of how you want your personal and financial affairs to be handled in case of incapacity or death, and the subsequent implementation of the strategies that will fulfill those objectives.

Who Needs an Estate Plan?

Chances are, you do

- Not just for the wealthy
- Without an estate plan, you can't control what happens to your property if you die or become incapacitated
- An estate plan makes your wishes clear and helps avoid family disputes
- Proper estate planning can preserve assets and provide for loved ones

Especially needed if:

- Your spouse isn't comfortable with financial matters
- You have minor children
- Your net worth exceeds the federal transfer tax exclusion amount (\$11,700,000 in 2021) or, if less, your state's exemption amount
- You own property in more than one state
- Financial privacy is a concern
- You own a business

Who needs an estate plan? Chances are, you do. You may think that estate planning is just for the wealthy, but it's not. In fact, an estate plan may actually be more important if you have a smaller estate, because your final expenses will have a much greater impact on your estate and there's a much greater possibility that your loved ones could suffer from a lack of financial resources. The fact is, without an estate plan, you can't control what happens to your property if you die or become incapacitated.

Generally, people create estate plans because they want that control. They also want to make sure that their wishes are clear in order to avoid family disputes. In addition, they care about preserving their property for their loved ones and want to make sure that their loved ones are properly provided for.

<CLICK> An estate plan is especially important if:

- <CLICK>Your spouse isn't comfortable with financial matters.
- <CLICK>You have young children who would need a guardian.
- <CLICK> You have an estate that will be impacted by transfer taxes. In 2021, on the federal level, that generally means estates that are over \$11,700,000. We'll go into more detail about that later. Also, be aware that this amount may be lower on the state level. States impose their own transfer taxes and each state has a different exemption amount.
- <CLICK> Estate planning is also particularly important if: you own property in more than one state.
- <CLICK> You have privacy concerns.
- <CLICK> You have other distinct needs; for example, planning for the succession of a business.



These are the estate planning concepts we'll be looking at today.

We'll talk about planning for incapacity first, briefly discussing both <CLICK> health-care issues and <CLICK> property management issues.

Then we're going to talk about planning for death, focusing on <CLICK> wills and probate, <CLICK> tax basics, <CLICK> lifetime gifting, <CLICK> trusts, and <CLICK> the role of life insurance in estate planning.

Planning for Incapacity

- Incapacity can strike anyone at any time
- Failing to plan means a court would have to appoint a guardian
- Lack of planning increases the burden on your guardian
- Your guardian's decisions might not be what you would want



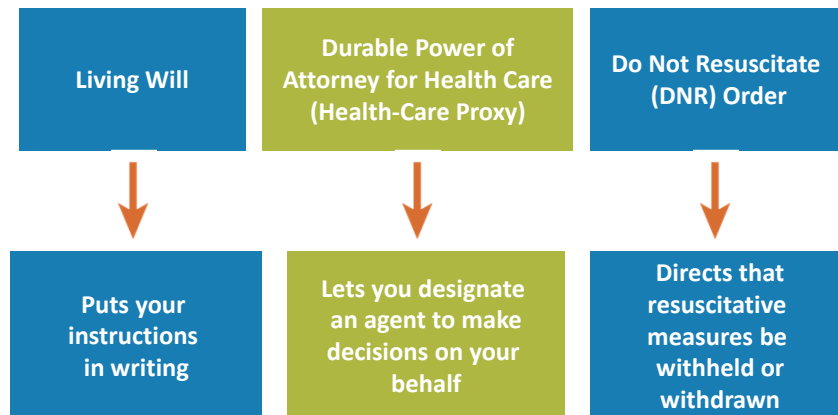
Incapacity describes a condition in which you are legally unable to make your own decisions.

We're talking about planning for incapacity first because incapacity could happen to anyone at anytime. Think for a moment what might happen if, for example, you were to become the victim of an accident that puts you in a coma for several months. How would your doctor know what medical treatments you would want or not want if you can't speak for yourself? How would your personal business be transacted if no one is authorized to sign documents for you?

What would happen is this: <CLICK> Someone would have to go to court and get legal permission to do things for you. And that person, who's called a guardian and is usually a close family member such as a spouse or child, <CLICK> would have to go back to court every time permission is needed. As you can imagine, this might be quite burdensome to the guardian.

<CLICK> Further, without any prepared instructions from you, your guardian might make decisions that would be different from what you would have decided.

Planning for Incapacity — Health-Care Directives



Not all types of health-care directives are effective in all states, so be sure to execute the one(s) that will be effective for you.

Let's talk about health-care directives first.

You can leave instructions about the medical care you would want if conditions were such that you couldn't express your own wishes. There are three different ways to do this: with a living will; a durable power of attorney for health care, which is referred to as a health-care proxy in some states; and a Do Not Resuscitate order, or DNR.

<CLICK> A living will is a document that lists the types of medical treatment you would want, or not want, under particular circumstances. For example, your living will might state that you would not want life support if you fell into a persistent vegetative state. With a living will, you'll have to think about all possible scenarios where you would want a specific action to be taken, and then put your wishes in writing so that the reader will clearly understand them.

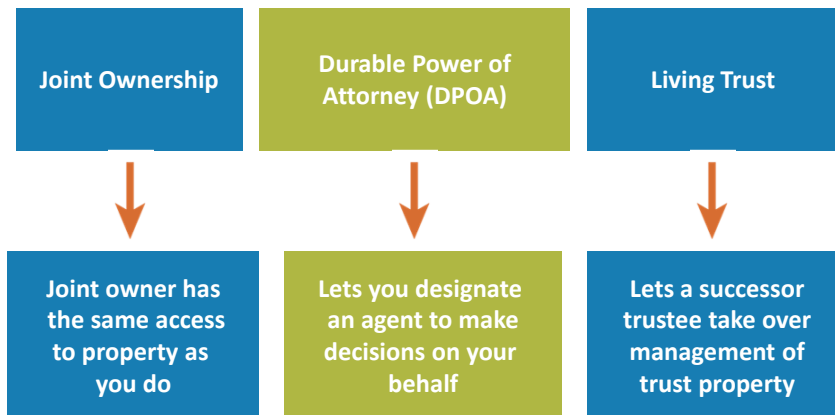
<CLICK> A durable power of attorney for health care, or health-care proxy, lets one or more family members or other trusted individuals (who are called agents) make medical care decisions for you. Unlike a living will, with this type of health-care directive you don't have to envision specific circumstances. You simply grant authority to your agent or agents to make decisions for you.

<CLICK> A Do Not Resuscitate order is used for a different purpose. Let's say that you're in the hospital, lingering and suffering with a terminal illness, and you don't want the hospital staff to take life-saving measures if you suddenly go into cardiac or respiratory arrest. To make sure your wishes are carried out, you may be able to get your doctor to issue a DNR. A DNR is a legal form, signed by both you and your doctor, that's posted by your bed to give staff members the permission they need to carry out your wishes.

Be careful if you're using a DNR. Some states require their own DNR form. And, some states require one DNR form if you're in the hospital, and a different DNR form if you're in a nursing home.

<CLICK> Be aware also that some states don't recognize some of these health-care directives. So, depending on your state, you might need one, two, or all three of them.

Planning for Incapacity — Property Management Tools



Now, let's take a look at some property management tools.

There are three ways you can plan to have your financial affairs taken care of for you in the event you become incapacitated. You can arrange to own property jointly, appoint an agent using a durable power of attorney, or create and put property in a living trust and name someone to take over the management of the trust if something happens to you.

<CLICK> Granting joint ownership of your property to another person allows that person to have the same access to the property as you do. If you become incapacitated, your joint owner simply acts instead. For example, if you and your spouse have a joint checking account, each of you can make deposits and write checks. So, if you were to go into a coma, your spouse would still be able to make the mortgage payments on time.

<CLICK> A durable power of attorney lets you name family members or other trusted individuals to make financial decisions or transact business on your behalf (just like with the durable power of attorney for health care).

<CLICK> In addition to joint ownership and a durable power of attorney, using a living trust is another common strategy. We'll talk in more detail about trusts later, but for now, just know that a living trust can be used in planning for incapacity because someone (called a successor trustee) can step into your shoes to manage the property in the trust if something should happen to you.

What Happens If You Die Without an Estate Plan?

- Some property passes automatically to a joint owner or to a designated beneficiary (e.g., IRAs, retirement plans, life insurance, trusts)
- All other property generally passes according to state intestacy laws



All of us make plans that are based on the possibility that a specific event may occur. Many of us carry more than the minimum required amount of auto insurance because we recognize the possibility that financial loss could result from an accident. Since it is 100 percent certain that each of us is going to die at some point, you might think that everyone would have an estate plan. The fact is, though, that's just not the case.

So, what happens if you die with no estate plan? If you own property jointly, that property may pass automatically to your joint owner upon your death. If you have an IRA or retirement plan, or you own life insurance, funds may pass automatically to your designated beneficiaries when you die. Similarly, property held in a trust may pass automatically to a designated beneficiary.

In general, however, property will pass according to state intestacy laws. These laws govern the disposition of property when someone dies without a will, or with a will that doesn't account for a portion of his or her estate.